

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reclassification of License	)	
of Stations KMXV(FM), Kansas City, Missouri	)	RM-11254
and KSRC(FM), Kansas City, Missouri	)	

**ORDER TO SHOW CAUSE**

**Adopted: July 13, 2005****Released: July 15, 2005****Comment Date: August 29, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division is a Petition for Rule Making filed by Big Country of Missouri, Inc. ("Petitioner"), requesting the upgrade of its Station KWRT-FM, Boonville, Missouri, from Channel 226A to Channel 226C3.<sup>1</sup> To accommodate this allotment, Petitioner requests the reclassification of Stations KMXV(FM), Channel 227C, Kansas City, Missouri, and KSRC(FM), Channel 271C, to specify operation as Class Co facilities.<sup>2</sup> Station KMXV(FM) currently operates on Channel 227C with an effective radiated power ("ERP") of 100 kilowatts at 325 meters height above average terrain ("HAAT"). In addition, Station KSRC(FM) currently operates on Channel 271C with an ERP of 100 kilowatts at 341 meters HAAT. As such, both FM stations are subject to reclassification as Class C0 facilities, because they are both operating below the minimum Class C facilities of 100 kW ERP and 451 meters HAAT.<sup>3</sup>

2. Section 316(a) of the Communications Act of 1934, as amended, permits the Commission to modify an authorization if such action is in the public interest.<sup>4</sup> Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and afford at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commissions' rules.<sup>5</sup> In this instance, a Class C0 reclassification for Stations KMXV(FM) and KSRC(FM) at Kansas City

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<sup>1</sup> The rulemaking petition was dismissed by letter due to a contingency with an earlier proceeding, and a timely petition for reconsideration was filed. Because the contingency has been removed, it is appropriate to consider this rulemaking petition by issuing an Order to Show Cause.

<sup>2</sup> Petitioner also proposes the substitution of Channel 272A for vacant Channel 226A at Wheatland, MO, which requires the reclassification of Station KSRC(FM), Channel 271C, Kansas City, MO as a C0 facility.

<sup>3</sup> See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

<sup>4</sup> 47 U.S.C. § 316(a).

<sup>5</sup> See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327

would accommodate the Petitioner's request to upgrade its Station KWRT-FM to Channel 226C3 and increase its service area and population. Therefore, the Petitioner's request has sufficient public interest benefits and justifies the issuance of an order to show cause.

3. The reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments.<sup>6</sup> In instances where an initiating petition proposes amending the FM Table of Allotments in addition to the proposed reclassification of a Class C FM station, the Commission must issue an order to show cause as set forth in Section 73.3573, note 4, of the Commission's rules. In such circumstances, a notice of proposed rule making will be issued only after the reclassification issue has been resolved.

4. A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a Class C FM station must certify that no alternative channel is available for the proposed service.<sup>7</sup> Petitioner has submitted such certification. Therefore, in order to comply with the Commission's Class C0 reclassification procedures, we must issue this *Order to Show Cause* directed to Infinity Radio Inc., licensee of Stations KMXV(FM) and KSRC(FM) at Kansas City. Infinity Radio is required to show cause why its license for Station KMXV(FM) should not be modified to specify operation on Channel 227C0 in lieu of Channel 227C and why its license for Station KSRC(FM) should not be modified to specify operation on Channel 271C0 in lieu of Channel 271C at Kansas City.

5. The license for Station KMXV(FM) at Kansas City, Missouri, can be modified to Channel 227C0 at its current authorized transmitter site located at coordinates 39-00-57 NL and 94-30-24 WL. Pursuant to 47 C.F.R. Section 1.87, Infinity Radio may, no later than August 29, 2005 file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The license for FM Station KSRC(FM), Kansas City, Missouri, can be modified to Channel 271C0 at its current authorized transmitter site located at coordinates 39-05-26 NL and 94-28-18 WL. In addition, pursuant to Section 1.87 of the Commission's Rules, Infinity Radio may, no later than August 29, 2005 file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call on Infinity Radio to furnish additional information. If Infinity Radio raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referred to above, Infinity Radio will be deemed to have consented to the modifications as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modifications are found to be in the public interest.

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(1987).

<sup>6</sup> *Second Report and Order, supra*, and 47 C.F.R. § 1.420, n.2.

<sup>7</sup> See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

6. If Infinity Radio chooses to seek authority to modify its facilities, an acceptable application for a construction permit to increase its facilities to at least 451 meters HAAT and 100kW ERP for Stations KMXV(FM) and KSRC(FM) must be filed with the Commission within 180 days subsequent to the show cause response due date (August 29, 2005). Upon the filing of an acceptable construction permit application, the proposal to upgrade Station KWRT-FM, Boonville, Missouri, to Channel 226C3, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Infinity Radio for Channels 227C or Channel 271C, as specified herein, under this procedure. If the construction is not completed as authorized, Stations KMXV(FM) and KSRC(FM) are subject to reclassification automatically as Class C0 stations, and, in that event, a new petition for rule making to upgrade Station KWRT-FM at Boonville, may be refiled.

7. IT IS ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this Order to Show Cause by Certified Mail, Return Receipt Requested, to the following licensee and its counsel:

Infinity Radio Inc.  
Licensee of Station KMXV(FM)  
Licensee of Station KSRC(FM)  
2000 K Street, N.W., Suite 725  
Washington, DC 20006

Steven A. Lerman, Esq.  
c/o Leventhal, Senter, & Lerman  
2000 K Street, N.W., Suite 600  
Washington, DC 20006

8. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Big Country of Missouri, Inc.  
1600 Radio Hill Road  
Boonville, Missouri 65233  
(Petitioner)

Frederick A. Polner, Esq.  
Rothman Gordon Foreman & Groudine, P.C.  
Third Floor, Grant Building  
Pittsburgh, PA 15219-2203  
(Counsel to Petitioner)

9. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, Maryland 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. **All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7.**

**Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

10. For further information on this proceeding, contact Andrew J. Rhodes, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau